

January 14, 2003

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**FIRE STATION 72
UNINCORPORATED LOS ANGELES COUNTY TERRITORY
SOUTH DECKER ROAD, MALIBU AREA
(THIRD) (4 VOTES)**

AFTER THE PUBLIC HEARING, IT IS JOINTLY RECOMMENDED THAT YOUR BOARD ACTING AS THE GOVERNING BODY OF THE CONSOLIDATED FIRE PROTECTION DISTRICT:

1. Consider the enclosed Addendum to the Mitigated Negative Declaration which details the proposed modifications to the effluent treatment system, along with the previously adopted Mitigated Negative Declaration, for Fire Station 72 which involves the removal of the existing fire station and construction of a new single story structure of approximately 4,200 square feet and appurtenant yard improvements; determine that the project will not have a significant effect on the environment; find that the Addendum reflects the independent judgment of the County; approve the Addendum; find that the project will have no adverse effect on wildlife resources; and authorize the Consolidated Fire Protection District (District) to complete and file a Certificate of Fee Exemption with the County Clerk.
2. Adopt the enclosed Mitigation Monitoring and Reporting Program to ensure compliance with the project and conditions adopted to mitigate or avoid potentially significant effects on the environment.
3. Adopt the enclosed Resolution of Necessity to acquire, by eminent domain, an easement for the construction, service and maintenance of a leach field, as part of a private effluent disposal system to serve Fire Station 72.

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4. Instruct County Counsel to file condemnation proceedings and take the necessary action to obtain an Order of Immediate Possession.
5. Instruct the Auditor-Controller to deposit an amount equal to the appraised value of the proposed easement in an account established by the Superior Court as part of the eminent domain proceedings.
6. Authorize the Fire Chief and the Director of Public Works (DPW) to carry out the project and delegate authority to DPW or his designee to manage the remaining design services and complete construction of the new Fire Station 72 on behalf of the District; to award and execute consultant agreements and supplements and construction contracts and change orders related to this project within the same limits delegated to DPW by your Board for County projects.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

In July of 1997, your Board approved a contract to demolish the existing 64-year old Fire Station 72 and construct in its place a modern fire protection facility. Subsequent to the commencement of construction, the contractor defaulted and failed to complete the project. On November 18, 1999, your Board authorized the Fire Chief to negotiate and execute a completion agreement with Great American Insurance Company (GAIC) to complete the construction of Fire Station 72 and settle outstanding claims caused by the default of the contractor. On February 24, 2000, this completion agreement was executed among the District, GAIC and Stuart Construction Company, the contractor retained by GAIC to complete the project.

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However, the construction has been unable to resume because the geology on the District owned site is not adequate to support a septic system leach field. The enclosed Resolution of Necessity, if adopted, will authorize the District to acquire, by eminent domain, an easement for the construction, service and maintenance of a leach field upon, over and across a portion of a privately owned property located at 1838 South Decker Road, (Subject Property) located adjacent to Fire Station 72. The County participated in negotiations with the owner of the subject property, but those negotiations have not resulted in a mutually satisfactory acquisition price, and as a result, the parties are at a stalemate. The proposed action is necessary because:

- the Director of DPW does not have delegated authority to award and execute agreements and contracts for the District as he does for other County projects. In order to deliver the completion of Fire Station 72, the Fire Chief requests this authority be delegated to DPW.
- The proposed facility is not served by a public sewer and engineers retained by the District have determined that the existing soils on the District owned parcel will not adequately percolate the treated effluent that will be produced by the ongoing operation of the proposed fire station. The proposed septic system design mitigates this problem by locating the leach field on the subject property which has suitable soil conditions.
- As a condition to approving the building permit, the Department of Health Services (DHS), in its capacity of having design oversight in the construction of septic facilities, requires the District to provide a septic system sufficiently large to accommodate the proposed occupancy. Acquisition of the easement will allow the County to fulfill the DHS requirements and proceed with the construction of the proposed fire station.

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IMPLEMENTATION OF STRATEGIC PLAN GOALS

The recommended action pertaining to the delegation of authority is consistent with the County Strategic Plan Goal of Organizational Effectiveness (Goal 3, Strategy 3). The acquisition of easement rights by eminent domain to provide for the installation of a needed septic system is likewise consistent with the Goal of Investing in Public Infrastructure (Goal 4, Strategy 2).

FISCAL IMPACT/FINANCING

As a condition of obtaining an order for immediate possession in the eminent domain action, the District must deposit into court the estimated value of the easement.

The value of the easement to be acquired has been estimated to be \$32,200. The final value of the acquisition may increase or decrease based upon an updated appraisal, plus any additional condemnation processing costs. Funding for this acquisition and the costs attributable to Public Works project management and engineering services will be provided through the 2002-03 Fire Department Accumulated Capital Outlay Fund Budget. Following completion of the preliminary engineering services, DPW will return to your Board with a detailed project budget and completion schedule.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Pursuant to Section 1245.210 et seq. of the Code of Civil Procedure, prior to adopting the attached Resolution of Necessity, your Board must find and determine that: (1) the public interest and necessity require this project, (2) the project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury, (3) the Subject Property is necessary for this project, and (4) the offer as required by Section 7267.2 of the Government Code has been made to the owners of record. In addition to the foregoing, these findings and determinations are appropriate for the following reasons:

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- The proposed project has been planned and located based upon the analysis and recommendations contained in the following report prepared by two qualified civil engineering firms: County of Los Angeles, Fire Station 72 - Decker Canyon Road, Sewage Treatment & Disposal System, Feasibility Analysis, dated January 2002, prepared by Parsons Engineering and the appendices dated October 17, 2001, prepared by RJR Engineering Group. Copies of this report is submitted herewith for your review.
- The acquisition of the easement will enable the District to complete the construction of Fire Station 72 in compliance with the Building Code and health regulations imposed by DHS.
 1. It is not feasible to construct an adequate septic system on the District owned land that would meet the health regulations imposed by DHS.
 2. The subject property is the only parcel within close proximity to Fire Station 72 that can accommodate the required septic system.
- The CAO, on behalf of the District, has established an amount which it believes to be just compensation based upon analysis of the appraisals of the fair market value prepared by the County and the subject property owner. Inasmuch as determining the exact value of an easement is difficult, the CAO has made offers to the owner of record in an amount in excess of the County's appraised value, but significantly less than the appraised value suggested by owner's appraiser.
- The Department of Regional Planning, pursuant to Section 65402 of the Government Code, has been apprised of the proposed acquisition of this easement, and has not indicated any objection to the acquisition.

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- Code of Civil Procedure Section 1245.235 requires that a public hearing be held prior to the adoption of the Resolution of Necessity. Notice of the hearing has been sent to each affected property owner as required by the above Code Section.

NEGATIVE DECLARATION/ENVIRONMENTAL IMPACT REPORT

Your Board previously approved a Mitigated Negative Declaration for the removal of the existing fire station and the construction of a new facility on this site, on June 9, 1992, synopsis number 68. Since this time, it has been determined that a portion of the effluent treatment disposal system for the new facility must be located on the Subject Property. The enclosed Addendum to the Mitigated Negative Declaration discusses the environmental impact of this change.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

It is the finding of the CAO that the proposed acquisition is in the best interests of the County and upon completion of Fire Station 72, will beneficially impact the emergency services provided to the unincorporated areas near Malibu and the City of Malibu.

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CONCLUSION

This action is in the County's interest. In the absence of the proposed recommendations, the County cannot timely complete the construction of Fire Station 72 which will adversely affect the District's ability to effectively deliver emergency services to the surrounding area. Enclosed are one original and four duplicates of the proposed Resolution of Necessity. Upon adoption, please retain two copies for your files. It is requested that the Executive Officer, Board of Supervisors, return one original and two copies of the executed Resolution of Necessity, two certified copies of the Minute Order, and the adopted, stamped Board letter to the CAO Real Estate Division at 222 South Hill Street, 3rd Floor, Los Angeles, California 90012 for further processing.

Respectfully submitted,

DAVID E. JANSSEN
Chief Administrative Officer

P. MICHAEL FREEMAN
Fire Chief

DEJ:SNY
CWW:CK:pe

Attachments

c: County Counsel
Fire Department
Auditor-Controller
Department of Public Works